

**HARRY TEAGUE**

2ND DISTRICT, NEW MEXICO

**WASHINGTON OFFICE:**

1007 LONGWORTH HOUSE OFFICE BUILDING

WASHINGTON, DC 20515

PHONE: (202) 225-2365

FAX: (202) 225-9599

<http://teague.house.gov>



# Congress of the United States

## House of Representatives

Washington, DC 20515-3102

August 27, 2009

**COMMITTEES:**  
TRANSPORTATION AND  
INFRASTRUCTURE

**SUBCOMMITTEES:**  
RAILROADS, PIPELINES, AND  
HAZARDOUS MATERIALS

WATER, RESOURCES AND ENVIRONMENT

VETERANS' AFFAIRS  
ECONOMIC OPPORTUNITY

HEALTH

The Honorable Lisa Jackson  
Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Dear Administrator Jackson:

We wish to join those Members of Congress who have expressed significant interest over whether the Environmental Protection Agency decides to regulate coal combustion byproducts (CCBs) as either a non-hazardous waste under Subtitle D or a hazardous waste under Subtitle C of the Resource Conservation and Recovery Act (RCRA).

As those States who have weighed in on coal ash regulation have indicated, a non-hazardous waste designation would allow EPA to work with the states in implementing regulations that are fully protective of human health and the environment without negatively impacting coal ash beneficial use and causing an increase in energy prices at a time when the country can least afford it.

The regulation of CCBs as hazardous waste would likely end beneficial use practices of the material. Over 20 state environmental agencies have contacted EPA on this issue and these states unanimously agree that EPA should not regulate coal ash as a hazardous waste, but rather should regulate it as non-hazardous waste, like most other industrial solid wastes generated in this country. These states make a compelling case that hazardous waste regulation is unnecessary, and could be environmentally counter-productive because such regulation would effectively end the beneficial use of coal ash, which plays a significant role in the reduction of greenhouse gases.

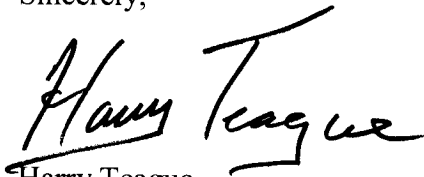
We believe the Mining and Minerals Division of the New Mexico Minerals and Natural Resources Department and the New Mexico Environment Department provide have the regulatory infrastructure to manage coal ash, oversee its use for beneficial applications and provide safe, environmentally protective disposal options. It is important that the regulation of CCBs under national standards developed by EPA maintains flexibility and preserves state primacy in overseeing the safe management of CCBs. A non-hazardous waste designation under a Subtitle D program allows for proper oversight.

**DISTRICT OFFICES:**

We appreciate that EPA has a responsibility to ensure the safe disposition of coal ash; however, we believe that regulation under Subtitle D would protect health and human safety, while allowing for the beneficial use of coal ash and promoting our energy and national security policy.

Thank you for all your consideration.

Sincerely,

A handwritten signature in black ink that reads "Harry Teague". The signature is written in a cursive style with a large, stylized "H" and "T".

Harry Teague  
Member of Congress